

US EPA ARCHIVE DOCUMENT

# **SECTION 3:**

## **INTERGOVERNMENTAL COOPERATION ACT AGREEMENTS**

### **1. General**

Federal departments and agencies can provide special or technical services authorized by law to state and local units of governments [*Title III of the Intergovernmental Cooperation Act (ICA) (35 U.S.C. 6501)*]. IGAs between the EPA\ORD and state and local governments citing the ICA as authority must be funds-in agreements. A contract or assistance agreement is the vehicle used for ORD to join with a state or local government to transfer funds out.

For guidance on using and processing IGAs, see OMB Circulars A-97 and A-25.

### **2. Purpose**

**Title III of the ICA is intended to:**

- a.** Encourage intergovernmental cooperation of specialized or technical services and provision of facilities essential to the administration of state or local government activities.
- b.** Enable state and local governments to avoid duplicating special service functions.
- c.** Authorize federal agencies not having such authority to provide reimbursable, specialized, and technical services to state and local governments.

Tribal governments are not included in this Act.

The ICA is not a general authority for the state and local governments to use the federal government for all needs. If similar services are readily obtainable from commercial sources, then an IGA is not authorized.

### **3. ICA Guidelines**

The ICA authorizes the heads of any federal agency, within their discretion and with a written request from a state or local government, to provide specialized or technical services.

- a. Local governments include county, municipality, city, town, township, or a school or other special district created by state law—and all combinations of these local governments.
- b. Specialized or technical services include statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and any other similar service functions which ORD is especially equipped and authorized by law to perform.

Generally, the state or local government must reimburse the EPA for all costs associated with performing the service similar to a funds-in Economy Act IAG. The funds paid are applied to the principal appropriation from which the cost of providing such services has been paid or is to be charged. See OMB Circular A-25, “User Charges” (09/23/59) for costing guidance.

The state or local government must provide a State Chief Executive Certification that the requested goods or services are not reasonably and quickly available through ordinary business channels.

**Note:** The long lead time of a state or local government’s procurement process is not an acceptable justification.

If the federal agency will provide the service in full or in part through a federal contractor, then the federal agency must certify that:

- The work performed under the contract is part of the regular and continuing work of the agency.
- A contractor normally performs this function for the agency.



An agency may not enter into a contract for the sole purpose of supporting a request from a state or local government. The agency’s contract with its capacity to perform must already be in place.

#### 4. Special Considerations

- a. Providing services to a state or local government should supplement the service that the state provides for itself, not supplant it.
- b. The agency is not required to request full reimbursement in this instance (unless specifically requested to do so) if:

- 1) The agency has provided the service in the past under another authority.
  - 2) The services were provided at less than full reimbursement.
- c. Specialized and technical services can be provided under the ICA and the terms of Circular A-97 if an agency has provided these services as defined by the Act under other authorities.
  - d. The ICA and Circular A-97 are in addition to and do not supersede any existing authority of any federal agency.
  - e. The federal agency must furnish the entity making the request with a statement indicating the reasons for the denial when a request for a service is denied.

Questions about specific requests where the coverage of the ICA is in question are forwarded to OMB for resolution. Consult your EMS who will coordinate with OGC.

## **5. Processing the Award**

Once your management has given authorization to proceed, follow the same procedures as described for a funds-in IAG. Prepare a SOW, budget estimate, and Form 1610 citing the ICA as the authority. Include in the award package the following:

- A decision memorandum
- A QA review form
- A peer review (*if applicable*)
- The environmental review form
- The request and certification from the state or local government



The delegations are identical to those established for funds-in IAGs (*Table 7-1*).